

Message

From: Ayres, Sara [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CE5147A6A41E4AD488630393BB12C3F0-AYRES, SARA]
Sent: 7/10/2018 2:27:37 PM
To: Lischinsky, Robert [Lischinsky.Robert@epa.gov]; Mia, Marcia [Mia.Marcia@epa.gov]
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations
Attachments: Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations.docx; 2018 Wehrum Memo Guidance One Pager.docx

OK, here you go. Not much to put on the one pager, so flesh it out more as you think needed. Thanks.

Sara Ayres
Air Branch
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ayres.sara@epa.gov
(312) 353-6266

From: Lischinsky, Robert
Sent: Tuesday, July 10, 2018 8:44 AM
To: Ayres, Sara <Ayres.Sara@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: FW: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

FYI...Additional feedback from Terri. I have not received any further input from Greg and he had the opportunity to comment and/or share with his management. Sara, please send us the latest draft so we can review before having you put in final form. Also, a "one-pager" should be prepared providing the summary, action requested, background, etc.

Thanks.

Rob

From: Dykes, Teresa
Sent: Monday, July 09, 2018 5:42 PM
To: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Rob- Thanks. Yes- you are right that I said it should come from OECA if it comes out. And, Sara was fabulous in including me and staying on top of things. Considering that it was going out regardless- I switched to the position of crafting language that would at least state that a change in status would not affect past actions- which Sara did include (with some edits on FE- which I know is a sensitive point, so I did not challenge that even though it is the law right now because there was only a remand with MACT and not a vacatur like NSR). My fingers are crossed that Susan and/or Patrick realize the oddity of this- and nix it- but I am not holding my breath. Let me know what happens when you brief them, only to satisfy my curiosity.

Terri Dykes
Senior Attorney
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave. NW
Washington, DC 20460

202.564.9883

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From: Lischinsky, Robert
Sent: Monday, July 09, 2018 5:26 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>
Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Ayres, Sara <Ayres.Sara@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Ok. I just wanted to make sure OCE weighed in. Sara added the enforcement language you provided.

I also saw a June 12 e-mail where you asked Greg for his thoughts. So, I was not sure where we were at in the review – if Greg or others in OCE were still reviewing or if there was a change in the recommendations provided. You had previously recommended that OECA (the Office currently with the delegation) rather than OAR issue the memo and to have it issued at the Susan/Patrick level. If Susan/Patrick were to review the memo and ask for OCE's position, we would want to reflect accurately.

Rob

From: Dykes, Teresa
Sent: Monday, July 09, 2018 2:06 PM
To: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>
Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Ayres, Sara <Ayres.Sara@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

I have not briefed Greg and up on this. I don't have an "enforcement" basis to object to the memo- it just seems to me unnecessary- and odd in the form it is in. I did not chose to elevate its issuance.

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From: Lischinsky, Robert
Sent: Monday, July 09, 2018 11:09 AM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>
Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Ayres, Sara <Ayres.Sara@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Terri/Greg,

Sorry for trying to catch up on this – I was out last week. OC and OCE should be on the same page when bringing this issue to Susan's attention. If OCE management does not believe OECA (at the AA level or below) should issue this memo

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or believes that this memo should not go out (even if issued by OAR) and would like to recommend to Susan that we push back, please let us know.

Before possibly moving forward with a memo for signature, we'll need to inform David H. of OCE's position. We have a weekly with David on Wednesday. So, if you could let us know before hand, that would be helpful. Or if OCE management needs more time to consider/review the memo, we can let him know that too.

Thanks.

Rob

From: Dykes, Teresa
Sent: Thursday, July 05, 2018 1:54 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

OK- I will let folks over here know. It is what it is. Hopefully, Susan and Patrick will wonder why OECA is issuing a guidance with OAR suggestions and contacts!

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From: Ayres, Sara
Sent: Thursday, July 05, 2018 1:51 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

We were not planning to provide such a recommendation. Do we need a call or something to discuss? Thanks.

Sara Ayres
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From: Dykes, Teresa
Sent: Thursday, July 5, 2018 12:47 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Is OC moving this forward with a recommendation that it is not really needed?

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From: Ayres, Sara
Sent: Thursday, July 05, 2018 1:46 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

OK, so since OAQPS and OGC had only minor comments, we can move it forward for signature? Thanks.

Sara Ayres
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(312) 353-6266

From: Dykes, Teresa
Sent: Thursday, July 5, 2018 12:42 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Sorry. No more comments on that one.

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From: Ayres, Sara
Sent: Thursday, July 05, 2018 1:42 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Sorry, I was talking about the guidance memo for ADs, not the FAR memo – too many memos!

Sara Ayres
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From: Dykes, Teresa
Sent: Thursday, July 5, 2018 12:41 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Enforcement/Investigatory / Ex. 7(a)

Terri Dykes
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From: Ayres, Sara
Sent: Thursday, July 05, 2018 1:39 PM
To: Dykes, Teresa <Dykes.Teresa@epa.gov>
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>
Subject: FW: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Terri,

Do you think we will get comments from Apple or Phill on this memo, or should we start the signature process with Susan? Thanks.

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(312) 353-6266

From: Dalcher, Debra
Sent: Thursday, July 5, 2018 12:26 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>

Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Sara,

We have another applicability consultation early next week and we really need this guidance to be on the streets as soon as possible. Please provide an update when time allows.

Thank you, Debra

From: Ayres, Sara

Sent: Thursday, June 28, 2018 4:58 PM

To: Dalcher, Debra <dalcher.debra@epa.gov>

Cc: Torres, Elineth <Torres.Elineth@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>

Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Debra,

We haven't received final comments from the Air Enforcement Division yet, but I wanted to send you what we have so far for your review. There are some significant formatting changes to put it into the standard EPA memo format, and some additions to clarify issues important to OECA. I've attached both a redline and a clean version. Let me know if we need a call or something to discuss. Thanks.

Sara Ayres

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(312) 353-6266

From: Dalcher, Debra

Sent: Friday, June 15, 2018 11:43 AM

To: Ayres, Sara <Ayres.Sara@epa.gov>

Cc: Torres, Elineth <Torres.Elineth@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>

Subject: Re: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Great Sara! Thank you. Debra

Sent from my iPhone

On Jun 15, 2018, at 12:03 PM, Ayres, Sara <Ayres.Sara@epa.gov> wrote:

Debra,

I was able to brief my Office Director yesterday, and he thinks this memo should be from the OECA AA to the Regions. So, we're finalizing our comments/edits and will hopefully have something back to you soon. Once we are all OK with any suggested changes, we can start the signature process. Thanks for your patience.

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From: Dalcher, Debra
Sent: Thursday, June 7, 2018 1:42 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

Thank you Sara. I appreciate you looking into this for us. We will wait to hear back from you.

Debra

From: Ayres, Sara
Sent: Thursday, June 07, 2018 2:24 PM
To: Dalcher, Debra <dalcher.debra@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

That is different depending on the region, but, probably the Air Enforcement Managers is the right level. I'll see what my management folks think and let you know. Thanks.

Sara Ayres
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(312) 353-6266

From: Dalcher, Debra
Sent: Thursday, June 7, 2018 1:20 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>
Subject: Re: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations

I am not sure. Whatever level of mgmt/office is responsible for responding to applicability determinations? Debra

Sent from my iPhone

On Jun 7, 2018, at 9:52 AM, Ayres, Sara <Ayres.Sara@epa.gov> wrote:

I'm going to have to talk to my management about who is the right person within OECA to distribute guidance to the Regional Offices. Do you know what level in the regional offices is the intent? Air Enforcement Managers, RA's, someone else? Thanks.

Sara Ayres

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(312) 353-6266

From: Dalcher, Debra
Sent: Thursday, June 7, 2018 12:46 PM
To: Ayres, Sara <Ayres.Sara@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>; Dalcher, Debra <dalcher.debra@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

Sara, the draft guidance we have been working on has been vetted by all relevant parties including Sonja and Scott. We have been mulling the best way to distribute the guidance to the Regional Offices. We think the best way may be for OECA, with their role in applicability determinations, to distribute the guidance to the ROs. We would like to announce the guidance's availability during the APM meeting (during Elineth's presentation next week) and then have it sent out. Would you be willing to make the distribution as a follow-up to the meeting? If you have other ideas on the best way to communicate this guidance out, please let me know.

Thank you so much.

Attached is the final version of the guidance.

From: Dalcher, Debra
Sent: Tuesday, May 22, 2018 4:58 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>;
Rodman, Sonja <Rodman.Sonja@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

All,

I have incorporated Sonja and Sara edits. OECA recommended one change in the first sentence (see below).

Bill, we are ready to show this to Penny – all reviews complete. We can ask how to distribute to the Regional Offices.

Debra,

My only comment is on the first sentence of the guidance. A State cannot submit an applicability determination request to EPA. It has to be submitted by a source and it is a site-specific response. If a State asks us a general question about how applicability would apply under a certain rule, any response from EPA would be considered a Regulatory Interpretation.

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(312) 353-6266

From: Dalcher, Debra
Sent: Tuesday, May 22, 2018 12:03 PM
To: Jordan, Scott <Jordan.Scott@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>;
Rodman, Sonja <Rodman.Sonja@epa.gov>
Cc: Torres, Elineth <Torres.Elineth@epa.gov>
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

Hi Scott, I don't anticipate a lot more changes. Here is the link for Sonja.

https://usepa.sharepoint.com/:w:/r/sites/OAR_Custom/PSG/OIAI%20Policy/Applicability%20Determinations/Draft%20Guidance%20for%20Incorporating%202018%20Wehrum%20Reclassification%20Memorandum%20in%20Applicability%20Determinations.docx?d=wddb3ab0206f845eab3aa2407eb9f9565&csf=1&e=UUrWqK

Thank you, Debra

From: Jordan, Scott
Sent: Tuesday, May 22, 2018 12:00 PM
To: Dalcher, Debra <dalcher.debra@epa.gov>; Lamason, Bill <Lamason.Bill@epa.gov>;
Torres, Elineth <Torres.Elineth@epa.gov>
Cc: Rodman, Sonja <Rodman.Sonja@epa.gov>
Subject: Re: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

Debra - I would like Sonja to have the opportunity to review this (and it is only 2 pages). Do you expect there to be significant changes over the next day or two? If so, let's hold until those changes are made. If not, can you send Sonja the link? (I don't know if I can just forward this email to Sonja with the sharepoint link below, or if the link has to come from you.)

Thanks,

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Dalcher, Debra
Sent: Tuesday, May 22, 2018 11:48 AM
To: Jordan, Scott; Lamason, Bill; Torres, Elineth
Subject: RE: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

Bill,

Scott provided some great edits to this document. It is ready for your review. I would like to get this out to the Regions sooner vs. later and want to keep this moving. We should also provide this to our staff so they know what to look for just in case someone doesn't include us in the review process.

https://usepa.sharepoint.com/:w:/r/sites/OAR_Custom/PSG/OIAI%20Policy/Applicability%20Determinations/Draft%20Guidance%20for%20Incorporating%202018%20Wehrum%20Reclassification%20Memorandum%20in%20Applicability%20Determinations.docx?d=wddb3ab0206f845eab3aa2407eb9f9565&csf=1&e=q4aKPY

Scott,

Do you think Sonja would like to review this? We will be providing you with an update on our Region 6 meeting (2 – ADs pending) in our CORE team meeting tomorrow.

Elineth,

We can mention this to Penny and see how she wants us to share this with the Regional Offices tomorrow.

Thank you, Debra

From: Jordan, Scott
Sent: Tuesday, May 22, 2018 11:03 AM
To: Lamason, Bill <Lamason.Bill@epa.gov>; Dalcher, Debra <dalcher.debra@epa.gov>
Subject: MM2A ADs - Draft Guidance for Incorporating 2018 Wehrum
Reclassification Memorandum in Applicability Determinations

I have marked some suggested edits and comments in the document in sharepoint.

For my own benefit (in case I want to see this version after we make further edits in the sharepoint document), I have attached the current version with my

comments. (To be clear, the attached document is the version that was in sharepoint as of a few minutes ago.)

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Dalcher, Debra <no-reply@sharepointonline.com>

Sent: Tuesday, May 22, 2018 10:22 AM

To: Jordan, Scott; Lamason, Bill

Cc: Dalcher, Debra

Subject: Dalcher, Debra has shared 'Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations'

Please review. Thanks, Debra

Open [Draft Guidance for Incorporating 2018 Wehrum Reclassification Memorandum in Applicability Determinations.docx](#)

See more related to [Dalcher, Debra](#) in Delve.

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